

Nama
Cape Hottentots

LAW AND JUSTICE

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the Bushmen, where indeed, save among the Namib groups, it cannot be said to exist at all.

Personal disputes or grievances of a minor character were settled among the Cape Hottentots¹ by the two parties themselves, either in verbal argument or more often by means of a hand-to-hand fight. No one took any heed of such quarrels except the women, who, in order to prevent their resulting in serious hurt or manslaughter, would intervene between the two men and ask them to stop. It was regarded as a serious disgrace if the men ignored this request and still continued to fight.² In more serious cases the matter was referred to a court consisting of the "captain" and all the adult men of the kraal, with the exception of those directly affected by the dispute. As soon as any complaint was made to the "captain", say about the disputed possession of cattle, he summoned all the men to a convenient open space outside the kraal, where they all sat round in a circle. The plaintiff and the defendant, together with their witnesses, were then given full hearing, each party conducting his own case. The councillors thoroughly examined the statements on both sides, and after discussion the decision was reached by the vote of the majority. The verdict was pronounced by the headman, and the party in whose favour it went obtained full possession of the disputed property. In cases of assault and bodily hurt the same procedure was followed, and damages awarded in cattle in proportion to the injury received. Offences such as murder, manslaughter, treason, theft, incest, adultery, and sodomy, regarded as crimes punishable by death, were also tried before this council. As soon as a man was known or suspected of having committed such an offence, every member of the kraal considered it a duty to arrest him at the first opportunity, unless he succeeded in making his escape. Once captured he was safely held until the council assembled, which was always as soon as possible. The councillors sat in a circle, and the accused was placed in the centre, where he could hear all that was said and himself be heard by everybody around. The accuser then stated his case, and produced all his proofs, supported by witnesses. The prisoner, in return, offered all means of defence the case would suggest, advancing any contradictory evidence at his command, and his answer

¹ Kolb, *op. cit.*, 136-9, 46; cf. Fritsch, *op. cit.*, 322.

² Some light perhaps is thrown upon this statement by the fact that among the Nama, as we have noted, a woman can generally be relied upon to stop any fight in which her brother, either own or classificatory, is taking part. The sanction here is the respect due to a sister by her brother.

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KAFFRARIA OR LAND OF THE HOTTENTOTS

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Dull-witted, dirty and coarse as these people are, they yet seem to preserve the law of nations as inviolate amongst them as it is among the most polished nations of Europe. Apart from the fact that they have shown this in several incidents, we can take as an example the answer given by the Goringhaiquas or Capemen, who in 1659 had fallen into strife and discord with our countrymen, to the question why they were troubling us and stealing away our cattle: they replied that they were doing so for no other reason than to avenge the suffering and injustice they had experienced at our taking away and sowing their lands, as has already been described ²²).

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In generosity and loyalty to those nearest them, they appear to shame the Dutch. For instance, if one of them has anything he will willingly share it with another; no matter how small it may be, they will always endeavour to share and divide it amongst themselves in a brotherly manner ²³). It is true that stealing does sometimes occur among them, owing to their consumption of the root *dacha*, which they mix with water and drink, thereupon becoming drunk and unwittingly driven to excesses. Others, hard pressed by poverty, also try to smuggle away something here and there; but if discovered they must pay for this with their lives. They are, however, unashamed, and for a small piece of bread or tobacco will expose themselves entirely to your gaze ²⁴).

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There appears nevertheless to be also a spark of dignity among them: for when they come to our countrymen at the Fort, they put on their most greasy and foul-smelling skins, and decorate their ears and throat with red and brasscoloured beads, deeming themselves the most beautifully arrayed.

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They also possess a keen sense of pride, no matter in how bad and wretched a state they live; for one village will not yield or bow to another, but would far rather offer it war instead. The victor not only plays the part of lord and master on this occasion, but invariably also conducts himself arrogantly towards his conquered enemy.

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respect renders him an object of public scorn (Schapera, *op. cit.*, 330).

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²²) Sir Thomas Herbert, writing in 1633, says of them: "I cannot commend their modesty, the women (upon receipt of anything) returning her gratitude by discovering her shame, a curtesie taught them by some ill-bred Boore, our men I hope have more civility" (*Some Yeares Travel into Asia and Afrique*, 16.) Cf. also Ten Rhyne (below, p. 115).

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CHAP. XIV.

Their Character.

Their native barbarism and idle desert life, together with
 a wretched ignorance of all virtues, imposes upon their
 minds every form of vicious pleasure. In faithlessness,
 inconstancy, lying, cheating, treachery, and infamous
 concern with every kind of lust they exercise their villainy.
 They are so bloody in their inclinations as to practise their
 cruelties even upon their vanquished enemies after their
 death, by striking their arrows and weapons into their
 dead carcases. Thus in the hardness of their hearts,
 resisting every impulse of humanity, they persist in the
 savagery of their fore-fathers. They are so addicted to
 theft, that one neighbour does not stick to enrich himself
 by stealing the cattle of another. Those Africans who gave
 you your triumphal name, O Scipio Africanus, lofty exemplar
 of culture and sainthood, must have been more humane,
 more chaste, than these. And in addition to their shameful
 indulgence in vice, they secure for themselves a luxurious
 idleness; they never till the soil, they sow nothing, they
 reap nothing, they take no heed what they shall eat or
 drink. But the force of nature keeps them absolutely
 subject to their squalid ways. Wherefore whoever wishes to
 employ them as slaves must keep them hungry, never fully
 satisfied, speak to them with authority, and never fail to
 be as good as his word.

A consequence of their way of life is that premature old
 age seizes their lustful and usually exhausted frames. But
 since they are very careless, or rather utterly indifferent,
 about recording their age, no certain statement can be
 made as to their average span of life. For the exhaustion
 produced by their unbridled lusts is compensated by the
 temperance to which their indigence compels them. Their
 diet is a vegetable one. Our countrymen dispute as to
 whether some of them have not outlived the century;
 and some speculate as to this being the reason for the
 great ages of men in antiquity.

Furthermore, from their tenderest years they have such
 an insatiable appetite for tobacco (infants of less than 8
 months old can often be seen smoking), that, when they
 have the chance of living for ever free from the restraint of
 laws and slavery, they yet prefer servitude to going without
 tobacco, often slaving at the nod of a master the whole
 day in return for a scanty portion of the weed. So
 extravagant and insatiable is their desire for it.